

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: CERTAINTED FIBER CEMENT SIDING  
LITIGATION**

**MDL DOCKET NO. 2270**

**COMPLAINANT: TERWILLIGER CENTER LIMITED  
PARTNERSHIP, an Oregon Limited Partnership  
By and through its General Partner, Reho Capital  
Management, LLC, Brian D. Reho, its Managing Member.**

**CLAIM NO. 1006658**

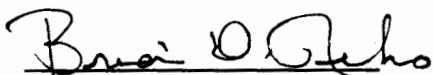
**NOTICE OF OBJECTION TO AGREEMENT OF COMPROMISE AND  
SETTLEMENT AND PLAINTIFFS' MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT**

1. Terwilliger Center Limited Partnership ("TCLP") hereby files papers with the Court to object to the DECLARATION OF MICHAEL MCSHANE IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND AGREEMENT OF COMPROMISE AND SETTLEMENT regarding certain Qualified Damage due to defects in the CertainTeed Weatherboards Fiber Cement siding and soffit panels that were installed as new construction on the Complainants building in March 2004.
2. Terwilliger Center Limited Partnership is represented herein by and through its General Partner, Reho Capital Management, LLC, Brian D. Reho, its Managing Member.
3. The building owned by Terwilliger Center Limited Partnership with defective siding and soffit panels is a two (2) story (split level), 8,064 sq. ft. commercial retail and services building with five (5) Tenants located at 8730 SW Terwilliger Blvd, Portland, Oregon, 97219 in the County of Multnomah, in the contiguous shopping center under the same ownership commonly known as "Terwilliger Center".
4. Attached hereto as Exhibit A is a true and correct copy of the Continuation Sheet used between the Complainant and its General Contractor showing the value allocated for CertainTeed Weatherboards Fiber Cement siding and soffit panels in the amount of \$18,250.00 and that as of October 4, 2004 the work had been 100% completed and that the General Contractor had been paid for the work excepting only \$3,912.50 which was held as retainage at that time but, paid upon completing the Terms of the Construction Contract.
5. Attached hereto as Exhibit B is a true and correct copy of the CertainTeed Weatherboards Fiber Cement siding and soffit panels Warranty dated 1/1/01.
6. The defective siding and soffit panels were installed in the course of new construction of the building in March 2004. The cost was \$18,250.00 installed.
7. Claim forms, supporting document evidence and photographs of Terwilliger Center Limited Partnership's claim have been filed with BMC Group, Settlement Administrator as Class Claim No. 1006658.
8. The Complainant, will not ask to appear at the Final Approval Hearing and hereby prays that the Court will give this written Complaint and prayer for equitable relief its full and considered attention in lieu of Complainants appearance.
9. As partial inducement for TCLP, through its contractor, to purchase CertainTeed Weatherboards Fiber Cement siding and soffit panels, TCLP relied in part upon the CertainTeed Weatherboards Fiber Cement siding and soffit panels Warranty dated 1/1/01.

10. TCLP hereby prays the Court relying on the fact that according to the CertainTeed Warranty Prorating Schedule dated 1/1/01, that TCLP's base monetary damages and/or compensation should not be less than \$16,644.00, a reduction of 8.8% of the original cost of the siding and soffit and, such other and further relief as to the court may deem just and proper based upon the same information Complainant filed with its associated Class Claim #1006658.
11. TCLP did not anticipate nor did it cause the failure of CertainTeed Weatherboards Fiber Cement siding and soffit panels and in attempting to repair and cosmetically hide the many locations of said siding and soffit defects, TCLP had to expend funds for labor, materials, equipment (scaffolding) and supervision of the work. (Note: the high work on the South side of the building has not completed).
12. TCLP hereby prays the Court to award it an additional \$2,100.00 as reasonable compensation for #9 above and such other and further relief as to the court may deem just and proper.
13. TCLP did not anticipate nor did it cause the failure of CertainTeed Weatherboards Fiber Cement siding and soffit panels and had to expend management office and field time, materials and related costs in researching, filling out forms, photographing, measuring and mailing Claim #1006658 and, this Notice of Objection and other miscellaneous associated expenses.
14. TCLP hereby prays the Court to award it an additional \$1,050.00 as reasonable compensation for #11 above and such other and further relief as to the court may deem just and proper.
15. ***In Summary***; TCLP hereby prays the Court to award it not less than \$19,794.00 as reasonable damages and/or compensation for article #'s 8, 10 and 12 above inclusive under Class Claim #1006658 and such other and further relief as to the court may deem just and proper.

Respectfully Submitted,

Dated: 12 / 20 / 2013



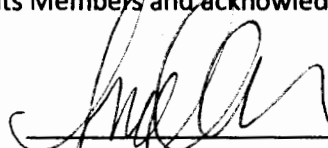
Brian D. Reho, Managing Member, Reho Capital Management, LLC for  
Terwilliger Center Limited Partnership

Address: Terwilliger Center Limited Partnership  
C/o Reho Capital Management, LLC  
Brian D. Reho, Managing Member  
9069 SW 35<sup>th</sup> Avenue  
Portland, OR 97219-5301

Telephone & FAX: (503) 246-1737  
Email: rehoproperties@aol.com

State of OREGON                     )  
  )ss.     On this 20<sup>th</sup> day of December, 2013, personally  
County of Multnomah            )     appeared before me Brian D. Reho who  
  )     stated that he is the Managing Member of Reho Capital  
Management, Limited Liability Company, and that the instrument was signed in behalf of the said,  
Limited Liability Company by authority of its Members and acknowledged said instrument to be its  
voluntary act and deed. Before me:





Notary Public for Oregon  
My Commission Expires:

March 5<sup>th</sup> 2014

**Filed by USPS Certified mail and Return Receipt requested with:**

**The Court:**

Clerk of the Court  
United States District Court for the Eastern District of Pennsylvania  
Byrne Federal Courthouse  
601 Market Street  
Philadelphia, PA 19106-1797

VIA- USPS Certified Delivery No. 70062150000157872100

**Class Counsel:**

AUDET & PARTNERS, LLP  
Michael McShane, Esquire  
221 Main Street, Suite 1460  
San Francisco, CA 94105

VIA- USPS Certified Delivery No. 70062150000157872094

APPLICATION NO: 1-8  
APPLICATION DATE: September 27, 2009  
PROJECT TO: 824-454 to 827704  
PROJECT PROJECT NO:

[illegible]

© 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678,

EXHIBIT A



CertainTeed reserves the right to discontinue or modify any of its products, including the color, without notice to the property owner/consumer, nor shall CertainTeed be liable in the event the replacement material may vary in color or gloss in comparison to the original product as a result of normal weathering. If CertainTeed replaces any material under this warranty, it may substitute products designated by CertainTeed to be of comparable quality or price range in the event the product initially installed has been discontinued or modified.

#### Other Conditions

THIS WARRANTY REPLACES ALL OTHER ORAL OR WRITTEN WARRANTIES, LIABILITIES OR OBLIGATIONS OF CERTAINTEED. PERTINENT STATE LAW SHALL CONTROL FOR WHAT PERIOD OF TIME FOLLOWING THE SALE A PROPERTY OWNER/CONSUMER MAY SEEK A REMEDY UNDER THE IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL CERTAINTEED BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY KIND, INCLUDING ANY DAMAGE TO THE BUILDING, ITS CONTENTS OR ANY PERSONS THEREIN, RESULTING FROM THE BREACH OF THIS WARRANTY. NO FIELD REPRESENTATIVE OR DISTRIBUTOR OR DEALER OF CERTAINTEED IS AUTHORIZED TO MAKE ANY CHANGE OR MODIFICATION TO THIS WARRANTY. SOME STATES DO NOT ALLOW LIMITATIONS ON, OR THE EXCLUSION OF, INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

This warranty gives you specific legal rights, and you may also have other rights which may vary from state to state.

#### Warranty Registration Information

Register your investment.

Register your product warranty on the CertainTeed Website @ [www.certainteed.com/warranty](http://www.certainteed.com/warranty).

You will then receive a numbered registration confirmation by return e-mail.

~~Failing to register this warranty shall not void the warranty or any of its terms.~~

#### What the Customer Must Do

The property owner/consumer must promptly notify CertainTeed in writing of any manufacturing defect (or hail damage) and provide proof of the date of purchase and installation, as well as proof of property ownership. All notifications should be sent to: CertainTeed, 750 E. Swedesford Road, Valley Forge, PA 19482 Attn: FiberCement Warranty Claims. The property owner may be required to submit a sample of the defective material to CertainTeed for analysis. CertainTeed will then investigate the claim and examine the material claimed to be defective. If a defect covered by this warranty is confirmed, CertainTeed, within a reasonable amount of time after the inspection, will repair or replace the fiber cement siding pursuant to the terms of this warranty.

#### Warranty Prorationing Schedule

Number of Years of Use Obtained After Installation	CertainTeed's Prorated Share of Warranty Obligation
0-5 years	100% of original purchase price
6-50 years	2.2% reduction in original purchase price for each year

CertainTeed Corporation  
P.O. Box 860  
Valley Forge, PA 19482  
[www.certainteed.com](http://www.certainteed.com)

**CertainTeed**  
Quality made certain. Satisfaction guaranteed.™

Effective Date 1/1/01  
(Replaces warranty dated 7/1/00)  
© 1/01 CertainTeed Corporation  
20-50-806

WEATHERBOARDS  
FIBERCEMENT SIDING  
CERTAINTEED CORPORATION

CertainTeed

50-YEAR  
LIMITED

WARRANTY

EXHIBIT B (1)

**CONGRATULATIONS!**... and thank you for your recent purchase of CertainTeed's WeatherBoards™ FiberCement Siding. You can feel confident that you have made a wise decision buying from a company that is an industry leader and stands behind its products with strong warranty protection.

Since 1904, CertainTeed has been producing quality building products that provide long-lasting beauty and protection for homes of every size, style and age. In addition to siding, CertainTeed offers asphalt roofing shingles, roof ventilation products, clay roof tiles, vinyl windows, fiber glass insulation and PVC pipe.

For over 90 years, the origin of our name continues to be our ongoing philosophy, "Quality made certain, satisfaction guaranteed."

### 50-YEAR WARRANTY

Limited, Prorated and Non-Transferable

#### What and Who Is Covered and for How Long

CertainTeed warrants to the original property owner/consumer that its WeatherBoards FiberCement Siding will be free from manufacturing defects, including cracking, rotting, delamination and damage from termites, when subject to normal and proper use. Should any such defect occur during the 50-year period following installation of the WeatherBoards FiberCement Siding, CertainTeed will repair or replace, at its option, the defective WeatherBoards FiberCement Siding subject to the prorating schedule set forth on back of this warranty. WeatherBoards FiberCement Siding coatings are covered by a separate written warranty.

Under no circumstances and in no event shall CertainTeed be liable for any labor charges or other expenses whatsoever in connection with the removal or installation of either the original or replacement WeatherBoards FiberCement Siding except to the extent CertainTeed, at its election, repairs rather than replaces the WeatherBoards FiberCement Siding determined to be defective, and except as provided by the SureStart™ coverage described below.

In the event of repair or replacement under the terms of this warranty, the original warranty shall apply to the replacement or repaired material and will extend for the balance of the warranty period in effect at the time the WeatherBoards FiberCement Siding proved defective.

WeatherBoards FiberCement Siding is warranted against damage from hail. In the event of damage caused by hail during the warranty period, it is the owner's responsibility to pursue the cost of replacement or repair of damaged material through homeowner's insurance or any other applicable insurance coverage. Any cost incurred by the owner in excess of the insurance contribution will be reimbursed by CertainTeed (excluding any insurance deductible), except that CertainTeed will not be liable for costs in excess of the value of the replacement material required to replace the material damaged by hail. CertainTeed will not be responsible for the cost of any labor required to install or replace hail-damaged material.

All references in this warranty to WeatherBoards FiberCement Siding include any WeatherBoards FiberCement soffit which is installed in conjunction with the original material.

### SureStart™ Protection

WeatherBoards FiberCement Siding products are covered by SureStart protection for a period of 2 (two) years following the date of installation of the WeatherBoards FiberCement Siding in the event that CertainTeed, at its election, replaces the WeatherBoards FiberCement Siding determined to be defective.

Under this warranty feature, CertainTeed, at no charge, will replace any WeatherBoards FiberCement Siding proven to be defective during the two year SureStart period. The SureStart period begins when the WeatherBoards FiberCement Siding installation has been completed.

CertainTeed's maximum liability under SureStart will be equal to the reasonable cost to replace the defective material at current value, including labor in connection with removal or installation of either the original or replacement WeatherBoards FiberCement Siding.

SureStart protection shall automatically terminate in the event the original purchaser sells the property on which the WeatherBoards FiberCement Siding is installed.

In instances in which CertainTeed, per the terms of this warranty, has agreed to pay labor charges, CertainTeed will provide reimbursement only upon receipt of a copy of the contractor's invoice for the completion of such work or other written evidence of the completion of such work which CertainTeed, in its sole discretion, deems acceptable.

#### Transferability

If there is a change in ownership, the original purchaser of the WeatherBoards FiberCement Siding may transfer the warranty to the new owner under the terms and conditions of this warranty. The warranty will then cover the period of 20 years following the installation of the fiber cement siding and will be prorated as indicated in the prorating schedule below.

#### Limitations

This warranty does not provide protection against any failure, defect or damage caused by situations and events beyond normal exposure conditions, including but not limited to:

- Misuse, abuse, neglect or improper handling or storage (including, but not limited to negligence in, or failure to provide, reasonable and necessary maintenance of the fiber cement siding to prevent an accumulation of surface dirt or stains).
- Improper application or application not in strict adherence to CertainTeed's written application instructions.
- Use of accessories which do not properly receive and or secure WeatherBoards FiberCement Siding.
- Impact of foreign objects, fire, earthquake, flood, lightning, hurricane, tornado or other casualty or act of God.
- Defects in, failure of, or damage to the wall or substrate on which the WeatherBoards FiberCement Siding was applied caused by movement, distortion, cracking or settling of the wall or substrate or the foundation of the building.
- Any other cause not involving manufacturing defects in the material supplied by CertainTeed.
- This warranty does not apply to any finish (including but not limited to paint or other coating) not applied over the manufacturer's original finish in accordance with CertainTeed's written application instructions.

The WeatherBoards FiberCement Siding is not warranted against discoloration or other damage caused by air pollution (including but not limited to metallic oxides or metallic particles), mildew, exposure to harmful chemicals or normal weathering from the elements.

Normal weathering is defined as exposure to sunlight and extremes of weather and atmosphere which will cause any surface to gradually fade or accumulate dirt or stains. The severity of any condition depends on the geographical location of the building, the cleanliness of the air in the area, and many other influences over which CertainTeed has no control.

CertainTeed shall have sole discretion to determine, based on reasonable criteria, whether the WeatherBoards FiberCement Siding is suffering from normal weathering. If the fiber cement siding weathers to a degree determined by CertainTeed to be beyond normal, CertainTeed will either repair or replace, at its option, the defective fiber cement siding.

**(SEE REVERSE SIDE FOR REMAINDER OF WARRANTY)**

EXH 131 T 6 (2)

Clerk of the Court  
United States District Court for the Eastern District of Pennsylvania  
Byrne Federal Courthouse  
601 Market Street  
Philadelphia, PA 19106-1797


December 20, 2013

VIA- USPS Certified Delivery No. 70062150000157872100

Dear Court Clerk,

Please file the enclosed original Complaint with the Court in RE: Certainteed Fiber Cement Siding  
Litigation, MDL Docket No. 2270.

Thank you.

  
Brian D. Reho, Managing Member, Reho Capital Management, LLC for  
Terwilliger Center Limited Partnership

Terwilliger Center Limited Partnership  
C/o Reho Capital Management, LLC  
Brian D. Reho, Managing Member  
9069 SW 35<sup>th</sup> Avenue  
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